



APF 2173

TRANSMITTAL FORM		Application No.	09/285,934
(to be used for all correspondence after initial filing)		Filing Date	April 2, 1999
		First Named Inventor	Randy Ubillos
		Group Art Unit	2173
		Examiner Name	Cao H. Nguyen
Total Number of Pages in This Submission	65	Attorney Docket Number	4860P2292

RECEIVED

JUL 15 2003

Technology Center 2100

ENCLOSURES (check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance Communication to Group
<input checked="" type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment / Response	<input type="checkbox"/> Petition	<input checked="" type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Terminal Disclaimer	<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Request for Refund	<div>-Check in the amount of \$320 -Return Receipt Postcard</div>
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> CD, Number of CD(s)	
<input type="checkbox"/> PTO/SB/08		
<input type="checkbox"/> Certified Copy of Priority Document(s)		
<input type="checkbox"/> Response to Missing Parts/Incomplete Application	Remarks	
<input type="checkbox"/> Basic Filing Fee		
<input type="checkbox"/> Declaration/POA		
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	Thomas M. Coester, Reg. No. 39,637 BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Signature	<i>Thomas Coester</i>
Date	July 7, 2003

CERTIFICATE OF MAILING/TRANSMISSION			
I hereby certify that this correspondence is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Appeal Brief-Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.			
Typed or printed name	Susan M. Barrette		
Signature	<i>Susan M. Barrette</i>	Date	July 7, 2003

JUL 11 2003

FEE TRANSMITTAL for FY 2003

Effective 01/01/2003. Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27.

TOTAL AMOUNT OF PAYMENT (\$) 320.00

Complete if Known

Application Number 09/285,934
Filing Date April 2, 1999
First Named Inventor Randy Ubillos
Examiner Name Cao H. Nguyen
Group/Art Unit 2173
Attorney Docket No. 4860P2292

RECEIVED

JUL 15 2003

Technology Center 2100

METHOD OF PAYMENT (check one)

☒ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None
☐ Deposit Account

Deposit Account Number 02-2666

Deposit Account Name Blakely, Sokoloff, Taylor & Zafman LLP

The Commissioner is authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☒ Credit any overpayments
☒ Charge any additional fee(s) required under 37 CFR §§ 1.16, 1.17, 1.18 and 1.20.
☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account

FEE CALCULATION

1. BASIC FILING FEE

Large Entity	Small Entity	Fee Code	Fee (\$)	Fee Description	Fee Paid
1001	2001	750	375	Utility filing fee	
1002	2002	330	165	Design filing fee	
1003	2003	520	260	Plant filing fee	
1004	2004	750	375	Reissue filing fee	
1005	2005	160	80	Provisional filing fee	
SUBTOTAL (1)					(\$)

2. EXTRA CLAIM FEES

Total Claims	Extra Claims	Fee from below	Fee Paid
39	39	0	\$0.00
Independent Claims	4	0	\$0.00
Multiple Dependent			

Large Entity	Small Entity	Fee Code	Fee (\$)	Fee Description	Fee Paid
1202	2202	18	9	Claims in excess of 20	
1201	2201	84	42	Independent claims in excess of 3	
1203	2203	280	140	Multiple Dependent claim, if not paid	
1204	2204	84	42	**Reissue independent claims over original patent	
1205	2205	18	9	**Reissue claims in excess of 20 and over original patent	
SUBTOTAL (2)					(\$) 0.00

**or number previously paid, if greater. For Reissues, see below

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity	Small Entity	Fee Code	Fee (\$)	Fee Description	Fee Paid
1051	2051	130	65	Surcharge - late filing fee or oath	
1052	2052	50	25	Surcharge - late provisional filing fee or cover sheet	
2063	2053	130	130	Non-English specification	
1812	1812	2,520	2,520	For filing a request for ex parte reexamination	
1804	1804	920	920	Requesting publication of SIR prior to Examiner action	
1805	1805	1,840	1,840	Requesting publication of SIR after Examiner action	
1251	2251	110	55	Extension for reply within first month	
1252	2252	410	205	Extension for reply within second month	
1253	2253	930	465	Extension for reply within third month	
1254	2254	1,450	725	Extension for reply within fourth month	
1255	2255	1,970	985	Extension for reply within fifth month	
1404	2401	320	160	Notice of Appeal	
1402	2402	320	160	Filing a brief in support of an appeal	320.00
1403	2403	280	140	Request for oral hearing	
1451	2451	1,510	1,510	Petition to institute a public use proceeding	
1452	2452	110	55	Petition to revive - unavoidable	
1453	2453	1,300	650	Petition to revive - unintentional	
1501	2501	1,300	650	Utility issue fee (or reissue)	
1502	2502	470	235	Design issue fee	
1503	2503	630	315	Plant issue fee	
1460	2460	130	130	Petitions to the Commissioner	
1807	1807	50	50	Processing fee under 37 CFR 1.17(q)	
1806	1806	180	180	Submission of Information Disclosure Stmt	
8021	8021	40	40	Recording each patent assignment per property (times number of properties)	
1809	1809	750	375	Filing a submission after final rejection (37 CFR § 1.129(a))	
1810	2810	750	375	For each additional invention to be examined (37 CFR § 1.129(b))	
1801	2801	750	375	Request for Continued Examination (RCE)	
1802	1802	900	900	Request for expedited examination of a design application	
Other fee (specify)					

* Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$) 320.00

SUBMITTED BY

Complete (if applicable)

Name (Print/Type) Thomas M. Coester Registration No. (Attorney/Agent) 39,637 Telephone (310) 207-3800
Signature Thomas Coester Date 07/07/03



#12
7-17-03
B. Hilliard
1 of 3

Attorney's Docket No. 4860P2292

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Randy Ubillos

Serial No. 09/285,934

Filed: April 2, 1999

For: EDIT TO TAPE

Examiner: Nguyen, Cao H.

Art Group: 4312

RECEIVED

JUL 15 2003

Technology Center 2100

APPEAL BRIEF

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicant, (hereinafter "Appellant") submit, in triplicate, the following Appeal Brief pursuant to 37 C.F.R. § 1.192 for consideration by the Board of Patent Appeals and Interferences. Appellant also submits herewith a check in the amount of \$320.00 to cover the cost of filing the opening brief as required by 37 C.F.R. § 1.17(f). Please charge any additional amount due or credit any overpayment to deposit Account No. 02-2666.

07/11/2003 HBLAND 00000022 09285934

01 FC:1402

320.00 OP

TABLE OF CONTENTS

	Page
I. REAL PARTY IN INTEREST.....	3
II. RELATED APPEALS AND INTERFERENCES	3
III. STATUS OF CLAIMS.....	3
IV. STATUS OF AMENDMENTS	3
V. SUMMARY OF THE INVENTION	3
VI. ISSUES.....	4
VII. GROUPING OF CLAIMS	4
VIII. ARGUMENT	5
A. Overview of the Prior Art.....	5
1. Overview of Valdez.....	5
B. Rejection of Group I Under 35 U.S.C. § 102(e) as Anticipated by Valdez	6
C. Rejection of Group II Under 35 U.S.C § 102(e) as Anticipated by Valdez	7
D. Rejection of Group III Under 35 U.S.C § 102(e) as Anticipated by Valdez	8
E. Rejection of Group IV Under 35 U.S.C § 102(e) as Anticipated by Valdez.....	9
F. Rejection of Group V Under 35 U.S.C § 102(e) as Anticipated by Valdez	9
G. Rejection of Group VI Under 35 U.S.C § 102(e) as Anticipated by Valdez	10
H. Rejection of Groups VII and VIII Under 35 U.S.C § 102(e) as Anticipated by Valdez... 10	
I. Rejection of Groups IX Under 35 U.S.C § 102(e) as Anticipated by Valdez.....	11
J. Rejection of Groups X Under 35 U.S.C § 102(e) as Anticipated by Valdez.....	12
K. Rejection of Groups XI Under 35 U.S.C § 102(e) as Anticipated by Valdez.....	12
L. Rejection of Groups XII Under 35 U.S.C § 102(e) as Anticipated by Valdez.....	13
M. Rejection of Groups XIII Under 35 U.S.C § 102(e) as Anticipated by Valdez.....	13
IX. CONCLUSION AND RELIEF	15
X. APPENDIX	16

I. REAL PARTY IN INTEREST

Randy Ubillos, the party named in the caption, assigned his rights to the invention disclosed in the subject application through an Assignment recorded on June 1, 1999 at reel and frame 009990/0730 to Apple Computer, Inc., 1 Infinite Loop, Cupertino, California 95014. Therefore, Apple Computer, Inc. is the real party in interest.

II. RELATED APPEALS AND INTERFERENCES

There are no other appeals or interferences that will directly affect or be directly affected by or have a bearing on the Board's decision in this Appeal.

III. STATUS OF CLAIMS

Claims 1-39 are pending in the application. The Examiner has rejected claims 1-39. Appellant appeals the rejection of claims 1-39.

IV. STATUS OF AMENDMENTS

No amendments to the claims were submitted after the Final Office Action mailed January 27, 2003.

V. SUMMARY OF THE INVENTION

The embodiments of the invention provide a method and apparatus for recording edited media to a sequential storage device. Page 5, lines 2-3. The sequential storage device may be a video tape deck or a video camcorder. Page 8, lines 1-3. The edited media may be stored in a predetermined media such as "Black and Code." Page 7, line 18- Page 8, line 3. The edited media

may be a time based stream of information from a source media. Page 5, lines 3-4. The media may be edited using a three point edit. Page 10, lines 17-18. A three point edit is a method in which three edit points are selected between a source and a destination, including a start point and end point in the source media and a start point in the destination media. Page 10, line 18 – page 11, line 10.

The embodiments of the invention include a user interface where media clips may be loaded and displayed. Page 11, line 20 – page 12, line 10. A control panel may display a time line tracking the chronological sequence of edited media (i.e., the time based stream of information). Page 12, line 4-10. Edit pointers may be positioned on the time line to select the portion of the media to be transferred. Page 12, lines 6-10. A second control panel interfaces with the sequential storage device (e.g., video tape deck). Page 13, lines 4-12. Time code indicators may be used to indicate the positioning of the playhead of the sequential device for purposes of recording and retrieving data. Page 13, line 21- page 13, line 13. The second control panel also includes a group of icons representing operations to be performed on the sequential device. Page 15-22. Edited source material may be dragged onto one of the icons to initiate an operation using that data on the sequential device. Page 17, lines 1-9.

VI. ISSUES

The issues involved in this Appeal are as follows:

A. Are claims 1-39 unpatentable under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,426,778 issued to Valdez, Jr. (“Valdez”)?

VII. GROUPING OF CLAIMS

All of the claims do not stand or fall together. Rather, Appellant contends that the claims can be divided into the following groups and each group is separately patentable:

Group I - Claims 1, 3-5, 24 and 31, 33-35

Group II - Claim 10, 12-14 and 17-21

Group III - Claims 2, 25 and 32
Group IV - Claim 11
Group V - Claims 6, 26-28 and 36
Group VI - Claim 30
Group VII - Claims 7, 29 and 37
Group VIII - Claim 15
Group IX - Claims 8 and 38
Group X - Claims 9 and 39
Group XI - Claim 16
Group XII - Claim 22
Group XIII - Claim 23

The basis for the separate patentability of the groups is set forth below.

VIII. ARGUMENT

The Examiner has rejected claims 1-39 as unpatentable under 35 U.S.C. §102(e) over Valdez (U.S. Patent No. 6,426,778).

A. Overview of the Prior Art

1. Overview of Valdez

Valdez teaches a system and method for synchronizing interactive elements with a video signal. See Abstract Valdez. The system includes an editing system that schedules transmission and appearance of the interactive elements. Valdez, col. 3, lines 56-59. The graphical user interface of the editor includes a time line for scheduling the interactive elements in relation to the overall presentation. Valdez, col. 4, lines 1-3. The display of the interactive elements with the overall presentation is accomplished by transmitting the interactive elements to be viewed at a predetermined time in relation to the transmission of the presentation. Valdez, col. 4, lines 14-21. The interactive elements may also be inserted into a video signal. Valdez, col. 4, lines 22-26. The

presentation and interactive elements are stored and organized as composition media objects, which are sets of descriptive information for playing a set of constituent source media objects. Valdez, col. 7, lines 50-59. Source media objects are audio, video, text or other media organized as objects in an object oriented programming paradigm. Valdez, col. 7, lines 60 – col. 8, line 2.

Valdez does not teach storing edited media on a sequential storage device. Valdez does not teach icons that represent functions to be performed on a sequential storage device. Valdez does not teach 'black and coding' a sequential access medium. Valdez does not teach a three point edit method.

B. Rejection of Group I Under 35 U.S.C. § 102(e) as Anticipated by Valdez

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Further, the cited reference must show an identical invention in as complete detail as that claimed, i.e., every element of the claimed invention must be literally present arranged as in the claim. See *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989) and *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

In regard to claims 1, 24, and 31, Appellant asserted in the Response to Office Action, mailed November 15, 2002 that Valdez did not teach each of element of these claims. In response to Appellant’s assertion that Valdez does not teach “transferring [an] edited time based stream to a sequential storage device using [an] icon wherein the icon represents a function to be performed on [a] sequential device,” (claim 1, lines 6-8) the Examiner cites col. 17, line 57 through col. 18, line 4 as teaching these elements of claims 1, 24 and 31. However, this section of Valdez teaches that a user can utilize icons that each represent a set of data to create relationships between the sets of data. See Valdez, col. 17, lines 48-56. This section of Valdez does not teach a transfer of data to a sequential storage device. Rather, it teaches the manipulation of data in a linked set of data structures. Valdez, col. 17, lines 52-56.

The Examiner has not indicated and Appellant has been unable to discern any part of Valdez that teaches an icon to transfer data to a sequential storage device. Thus, this section of Valdez does not set forth that an icon can represent a function to be formed on a sequential storage device or that such an icon can be used to transfer a time based stream to the sequential storage device. Thus, Valdez does not teach each element of claims 1, 24, and 31 arranged as in these claims.

In regard to claims 3-5 and 33-35, these claims depend from independent claims 1 and 31 and incorporate the limitations thereof. Thus, at least for the reasons mentioned in regard to claims 1 and 31, these claims are not anticipated by Valdez. Accordingly, it is requested that the anticipation rejection of Group I be overturned.

C. Rejection of Group II Under 35 U.S.C § 102(e) as Anticipated by Valdez

In regard to claim 10, this claim includes many of the same elements of the claims of Group I. Specifically, claim 10 includes the elements of “means for transferring [an] edited time based stream to [a] sequential storage device using [an] icon.” Thus, for the reasons mentioned in regard to the claims of Group I, Valdez does not teach each of the elements of claim 10.

In addition, this claim includes the language “means for” which indicates that interpretation of the claim is made under 35 U.S.C. § 112, sixth paragraph. 35 U.S.C. § 112, sixth paragraph, states that a claim limitation expressed in means-plus-function language “shall be construed to cover the corresponding structure...described in the specification and the equivalents thereof.” The Examiner has not indicated any part of Valdez that teaches the structure in the specification corresponding to the “means for transferring” in claim 10. Specifically, the Examiner has not indicated any part of Valdez that teaches a sequential storage device such as a video tape deck or video camcorder (page 8, lines 1-8 of Specification), the deck protocols and communications medium for a sequential storage device such as Firewire (page 8, lines 3-14 of Specification) and similar structural components discussed in the

specification that compose the “means for transferring.” Therefore, the Examiner has failed to establish that Valdez teaches each of the elements of claim 10.

In regard to claims 12-14 and 17-21, these claims depend from claim 10 and incorporate the limitations thereof. Thus, at least for the reasons mentioned in regard to claim 10, these claims are not anticipated by Valdez. Group II is separately patentable because it includes additional elements that are not taught by the cited reference. Accordingly, it is requested that the anticipation rejection of Group II be overturned.

D. Rejection of Group III Under 35 U.S.C § 102(e) as Anticipated by Valdez

In regard to claims 2, 25, and 32, these claims include the elements of a three-point editing between a source media and destination media. The Examiner stated in Paper No. 18 that Valdez does not teach these elements of claims 2, 25 and 34 by citing col. 12, lines 5-31 of Valdez. The Examiner provides no explanation as to how the cited section of Valdez applies to the elements of these claims. Appellant in reviewing this section of Valdez notes that it does not literally discuss a three point edit. Rather, this cited section of Valdez describes the information stored in a component object, which is “the top level abstract class of a composition object”. See Valdez, col. 12, lines 5-6. The data in a component class includes an edit rate. See col. 12, lines 27-31. This edit rate is a representation of time and is used for determining the duration of a component, for example the length of a video clip. The Examiner has not indicated and Appellant has been unable to discern what portions of this section the Examiner believes teach a three-point edit. Rather, this section relates to a data structure of a component object and does not relate to an act of editing involving three-point editing between a source media and a destination media. Thus, Valdez does not teach each element of claims 2, 25, and 32. The claims of Group III are separately patentable because they include additional elements that are not taught by the cited reference. Accordingly, it is requested that the anticipation rejection of Group III be overturned.

E. Rejection of Group IV Under 35 U.S.C § 102(e) as Anticipated by Valdez

In regard to claim 11, this claim depends from independent claim 10 and incorporates the limitations thereof. Thus, at least for the reasons mentioned in regard to claim 10, this claim is not anticipated by Valdez.

In addition, this claim also includes the language “means for” which indicates that interpretation of the claim is made under 35 U.S.C. § 112, sixth paragraph. 35 U.S.C. § 112, sixth paragraph, states that a claim limitation expressed in means-plus-function language “shall be construed to cover the corresponding structure...described in the specification and the equivalents thereof.” The Examiner has not indicated any part of Valdez that teaches the structure in the specification corresponding to the “means for performing a three point editing” in claim 11. Thus, the Examiner has not established that Valdez teaches each of the elements of claim 11. Group IV is separately patentable because it includes additional elements not taught by the cited reference. Accordingly, it is requested that the anticipation rejection of claim 11 be overturned.

F. Rejection of Group V Under 35 U.S.C § 102(e) as Anticipated by Valdez

In regard to claims 6, 26-28 and 36, these claims depend from independent claims 1 and 24 and incorporate the limitations thereof. Thus, at least for the reasons mentioned in regard to Group I, Valdez does not teach each of the elements of these claims.

In addition, these claims include the elements of an icon that performs the function of “one of an insert edit, an assembly edit and a preview edit” to be performed on a sequential device. Claim 6, lines 3 and 4. The Examiner cites col. 20, lines 1-64 and cols. 23 and 24 lines 1-67 (i.e., the claims) of Valdez as teaching these elements of claims 6, 26-28 and 36. The Examiner provides no explanation as to what part of the cited section of Valdez teaches these elements. Appellant has been unable to discern any part of the cited section where these elements are literally set forth. Thus, Appellant believes the Examiner has failed to establish that Valdez teaches each element of

claims 6, 26-28 and 36. Group V is separately patentable because it includes these additional elements that are not taught by the cited reference. Accordingly, it is requested that the anticipation rejection of Group V be overturned.

G. Rejection of Group VI Under 35 U.S.C § 102(e) as Anticipated by Valdez

In regard to claim 30, this claim depends from independent claim 24 and incorporates the limitations thereof. Thus, at least for the reasons mentioned in regard to Group I, claim 30 is not anticipated by Valdez.

In addition, claim 30 includes the elements of a “seventh circuitry configured to position a playhead of said sequential storage device.” The Examiner has cited cols. 23-24 lines 1-67 (the claims) of Valdez, in Paper no. 8, as teaching these elements of claim 30. However, the Examiner has provided no explanation as to how the cited section of Valdez teaches these elements of claim 30. Further, the cited sections do not set forth literally the elements of this claim. Thus, Appellant believes the Examiner has failed to establish that Valdez teaches each of the elements of claim 30. Claim 30 is separately patentable because it includes these additional elements that are not taught by the cited reference. Accordingly, it is requested that the anticipation rejection of claim 30 be overturned.

H. Rejection of Groups VII and VIII Under 35 U.S.C § 102(e) as Anticipated by Valdez

In regard to claims 7, 29 and 37, these claims depend from independent claims 1 and 24 and incorporate the limitations thereof. Thus, at least for the reasons mentioned in regard to Group I, these claims are not anticipated by Valdez. In regard to claim 15, this claim depends from independent claim 10 and incorporates the limitations thereof. Thus, at least for the reasons mentioned in regard to Group II, this claim is not anticipated by Valdez.

In addition these claims include the element of “black and coding a tape contained in said sequential device.” In response to the Appellant's request for further clarification of the Examiner's

rejection of these claims, the Examiner has cited col. 7, lines 60-68 without any explanation of the relevance of this section of Valdez. Appellant has been unable to discern any reference to black and coding of a tape in a sequential device in this section of Valdez. Appellant has not discerned any part of the cited section of Valdez that literally sets forth the elements of these claims. Thus, Appellant believes that the Examiner has failed to establish that Valdez teaches each element of claims 7, 15, 29, and 37. These claims are separately patentable because they include these additional elements not taught by the cited references. Accordingly, it is requested that the anticipation rejection of these claims be overturned.

I. Rejection of Groups IX Under 35 U.S.C § 102(e) as Anticipated by Valdez

In regard to claims 8 and 38, these claims depend from independent claims 1 and 31, respectively, and incorporate the limitations thereof. Thus, at least for the reasons mentioned in regard to Group I, these claims are not anticipated by Valdez.

In addition, claims 8 and 38 include the elements of “using a timecode indicator” to “position a playhead of [a] sequential storage device.” Claim 8, lines 2-3. The Examiner cites col. 21, lines 1-67 as teaching these elements of these claims. The Examiner has not clearly identified and Appellant has been unable to discern any part of the cited section of Valdez that teaches positioning a playhead of a sequential device or positioning a playhead based on a time code indicator. Appellant has been unable to discern any part of the cited section of Valdez that literally sets forth these elements of claims 8 and 38. Thus, Appellant believes Valdez does not teach these elements of these claims. Groups IX is each separately patentable because this group includes these additional elements that are not taught by the cited reference. Accordingly, it is requested that anticipation rejection of Groups IX be overturned.

J. Rejection of Groups X Under 35 U.S.C § 102(e) as Anticipated by Valdez

In regard to claims 9 and 39, these claims depend from independent claims 1 and 31 and incorporate the limitations thereof. Thus, at least for the reasons mentioned in regard to Group I, these claims are not anticipated by Valdez.

In addition, claims 9 and 39 include the elements of “using one of a mark in icon and a mark out icon” to “position a playhead of [a] sequential storage device.” Claim 9, lines 2-3. The Examiner cites col. 21, lines 1-67 as teaching these elements of these claims. The Examiner has not clearly identified and Appellant has been unable to discern any part of the cited section of Valdez that teaches positioning a playhead of a sequential device or positioning a playhead based on a time code indicator, mark in icon or mark out icon. Appellant has been unable to discern any part of the cited section of Valdez that literally sets forth the elements of these claims. Thus, Appellant believes Valdez does not teach these elements of these claims. Groups X is separately patentable because it includes these additional elements that are not taught by the cited reference. Accordingly, it is requested that anticipation rejection of Groups X be overturned.

K. Rejection of Groups XI Under 35 U.S.C § 102(e) as Anticipated by Valdez

In regard to claim 16, this claim depends from independent claim 10 and incorporates the limitations thereof. Thus, at least for the reasons mentioned in regard to Group II, this claim is not anticipated by Valdez.

In addition, claim 16, also includes the language “means for” which indicates that interpretation of the claim is made under 35 U.S.C. § 112, sixth paragraph. Claim 16 includes the elements of “means for positioning a playhead of [a] sequential storage device.” The Examiner cites col. 21, lines 1-67 as teaching these elements of this claim. The Examiner has not clearly identified and Appellant has been unable to discern any part of the cited section of Valdez that teaches positioning a playhead of a sequential device. Thus, the Examiner has not established that Valdez teaches each of the elements of claim 16. Group XI is separately patentable because it

includes additional elements not taught by the cited reference. Accordingly, it is requested that the anticipation rejection of claim 16 be overturned. Accordingly, it is requested that anticipation rejection of Groups XI be overturned.

L. Rejection of Groups XII Under 35 U.S.C § 102(e) as Anticipated by Valdez

In regard to claim 22, this claims depend from claim 16 and incorporates the limitations thereof. Thus, at least for the reasons mentioned in regard to Group XI, this claim is not anticipated by Valdez.

In addition, claim 22 includes the elements of “positioning means is a timecode indicator.” The Examiner cites col. 21, lines 1-67 as teaching these elements of this claim. The Examiner has not clearly identified and Appellant has been unable to discern any part of the cited section of Valdez that teaches positioning a playhead of a sequential device or positioning a playhead based on a time code indicator. Appellant has been unable to discern any part of the cited section of Valdez that literally sets forth the elements of this claim. Thus, Appellant believes Valdez does not teach these elements of this claim. Group XII is separately patentable because it includes these elements that are not taught by the cited reference. Accordingly, it is requested that anticipation rejection of Group XII be overturned.

M. Rejection of Groups XIII Under 35 U.S.C § 102(e) as Anticipated by Valdez

In regard to claim 23, this claims depend from claim 16 and incorporates the limitations thereof. Thus, at least for the reasons mentioned in regard to Group XI, this claim is not anticipated by Valdez.

In addition, claim 23 includes the elements of “positioning means is a one of a mark in icon and a mark out icon.” The Examiner cites col. 21, lines 1-67 as teaching these elements of claim 23. The Examiner has not clearly identified and Appellant has been unable to discern any part of the cited section of Valdez that teaches positioning a playhead of a sequential device or positioning

a playhead based on a mark in icon or a mark out icon. Appellant has been unable to discern any part of the cited section of Valdez that literally sets forth the elements of this claim. Thus, Appellant believes Valdez does not teach these elements of this claim. Group XIII is separately patentable because it includes these elements that are not taught by the cited reference. Accordingly, it is requested that anticipation rejection of Group XIII be overturned.

IX. CONCLUSION AND RELIEF

Accordingly, it is submitted that the rejections of Groups I-XIII based on 35 U.S.C. § 102(e) be overturned.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN

Dated: 7/7, 2003

Thomas Coester
Thomas M. Coester Reg. No. 39,637

12400 Wilshire Blvd.
Seventh Floor
Los Angeles, California 90025
(310) 207-3800

CERTIFICATE OF MAILING:

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Virginia, VA 22313-1450, on July 7, 2003.

Susan M. Barrette 7/7/2003
Susan M. Barrette July 7, 2003

X. APPENDIX

The claims involved in this Appeal are as follows:

1. A method comprising:

displaying an indicia of a time based stream of information of a source media;

editing said time based stream using at least one edit point; and

transferring said edited time based stream to a sequential storage device using an icon, wherein said icon represents a function to be performed on said sequential storage device.
2. A method as in claim 1, wherein said editing comprises a three point editing between said source media and a destination media.
3. A method as in claim 1, wherein transferring said edited time based stream comprises:

transferring said edited time based stream to a portion of a window, said window having at least one icon;

said icon performing a function on said sequential device by default.
4. A method as in claim 1, wherein transferring said edited time based stream comprises:

transferring said edited time based stream to said icon, said icon performing said function on said sequential device.
5. A method as in claim 1, wherein transferring said edited time based stream comprises:

clicking said icon with a cursor control device, said icon performing said function on said sequential device.

6. A method as in claim 1, wherein said function is one of an insert edit, an assembly edit and a preview edit.

7. A method as in claim 1, further comprising:
black and coding a tape contained in said sequential device.

8. A method as in claim 1, further comprising:
using a timecode indicator to position a playhead of said sequential storage device.

9. A method as in claim 1, further comprising:
using one of a mark in icon and a mark out icon to position a playhead of said sequential storage device.

10. An apparatus comprising:
a display device to display an indicia of a time based stream of information of a source media;
means for editing said time based stream using at least one edit point;
at least one icon displayed on said display device, wherein said icon represents a function to be performed on a sequential storage device; and
means for transferring said edited time based stream to said sequential storage device using said icon.

11. An apparatus as in claim 10, wherein said editing means includes means for performing a three point editing between said source media and a destination media.

12. An apparatus as in claim 10, further comprising:
means for insert editing said edited time based stream to said sequential storage device using said icon.
13. An apparatus as in claim 10, further comprising:
means for assembly editing said edited time based stream to said sequential storage device using said icon.
14. An apparatus as in claim 10, further comprising:
means for preview editing said edited time based stream using said icon.
15. An apparatus as in claim 10, wherein said sequential device further comprising:
a tape having a black and code format.
16. An apparatus as in claim 10, further comprising:
means for positioning a playhead of said sequential storage device.
17. An apparatus as in claim 10, wherein said editing means is a cursor control device.
18. An apparatus as in claim 10, wherein said transferring means is a cursor control device.
19. An apparatus as in claim 12, wherein said insert editing means is a processor executing a sequence of instructions.
20. An apparatus as in claim 13, wherein said assembly editing means is a processor executing a sequence of instructions.
21. An apparatus as in claim 14, wherein said preview editing means is a processor executing a sequence of instructions.

22. An apparatus as in claim 16, wherein said positioning means is a timecode indicator.

23. An apparatus as in claim 16, wherein said positioning means is one of a mark in icon and a mark out icon.

24. A system comprising:
a computing device;
a display device to display an indicia of a time based stream of information of a source media;
at least one icon displayed on said display device, wherein said icon represents a function to be performed on a sequential storage device; and
said computing device including a first circuitry configured to edit said time based stream using at least one edit point, and
a second circuitry configured to transfer said edited time based stream to said sequential storage device using said icon.

25. A system as in claim 24, wherein said first circuitry includes a third circuitry configured to perform a three point editing between said source media and a destination media.

26. A system as in claim 24, further comprising:
a fourth circuitry configured to insert edit said edited time based stream to said sequential storage device using said icon.

27. A system as in claim 24, further comprising:
a fifth circuitry configured to assembly edit said edited time based stream to said sequential storage device using said icon.

28. A system as in claim 24, further comprising:

a sixth circuitry configured to preview edit said edited time based stream using said icon.

29. A system as in claim 24, wherein said sequential device further comprising:
a tape having a black and code format.

30. A system as in claim 24, further comprising:
a seventh circuitry configured to position a playhead of said sequential storage device.

31. A machine readable medium having stored thereon data representing sequences of instructions, which when executed by a computer system, cause said computer system to perform a method comprising:

displaying an indicia of a time based stream of information of a source media;

editing said time based stream using at least one edit point; and

transferring said edited time based stream to a sequential storage device using an icon,

wherein said icon represents a function to be performed on said sequential storage device.

32. A machine readable medium as in claim 32, wherein said editing comprises a three point editing between said source media and a destination media.

33. A machine readable medium as in claim 32, wherein transferring said edited time based stream comprises:

transferring said edited time based stream to a portion of a window, said window having at least one icon;

said icon performing a function on said sequential device by default.

34. A machine readable medium as in claim 32, wherein transferring said edited time based stream comprises:

transferring said edited time based stream to said icon, said icon performing said function on said sequential device.

35. A machine readable medium as in claim 32, wherein transferring said edited time based stream comprises:

clicking said icon with a cursor control device, said icon performing said function on said sequential device.

36. A machine readable medium as in claim 32, wherein said function is one of an insert edit, an assembly edit and a preview edit.

37. A machine readable medium as in claim 32, further comprising:
black and coding a tape contained in said sequential device.

38. A machine readable medium as in claim 32, further comprising:
using a timecode indicator to position a playhead of said sequential storage device.

39. A machine readable medium as in claim 32, further comprising:
using one of a mark in icon and a mark out icon to position a playhead of said sequential storage device.